

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

DAVID T. CARTER

PETITIONER

VS.

CIVIL ACTION NO. 3:13CV701TSL-JCG

WARDEN FRANK SHAW

RESPONDENT

ORDER

This cause came on this date to be heard upon the report and recommendation of United States Magistrate Judge John C. Gargiulo, and the court, having fully reviewed the report and recommendation entered in this cause on December 8, 2015, and being duly advised in the premises, finds that said report and recommendation should be adopted as the opinion of this court.

IT IS, THEREFORE, ORDERED that the report and recommendation of United States Magistrate Judge John C. Gargiulo entered on December 8, 2015, be, and the same is hereby adopted as the finding of this court, and the petition for writ of habeas corpus is hereby dismissed with prejudice.

It is further ordered that a certificate of appealability should not issue. Petitioner has failed to demonstrate that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right" and that "jurists of reason would find it debatable whether [this] court was correct in its procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484, 120 S. Ct. 1595, 146 L. Ed. 2d 542 (2000).

A separate judgment will be entered in accordance with Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED this 14<sup>th</sup> day of January, 2016.

/s/Tom S. Lee

UNITED STATES DISTRICT JUDGE